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26/10/07

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No. 6304 of 2007

PETITIONER J.R. Sahu,
S/o Late Shri M.L. Sahu,
Aged about 56 years,
R/o-Behind Radha Krishana Mandir, Imlibhata,
Mahasamund, District Mahasamund, Chhattisgarh

Versus

RESPONDENTS

1 Food Corporation of India,
Through – Managing Director,
Head Quarter – New Delhi,
16-20 Barakhamba Lane,
NEW DELHI

2 The Executive Director,
Food Corporation of India,
Dhiraj Arma Building,
Near Anant Kanekar Police Station, Bandra (East)
MUMBAI – 400051

3 The General Manager,
Food Corporation of India,
Ring Road Chouraha, Telibandha,
Raipur, Chhattisgarh.

4 The Area Manager,
Food Corporation of India,
Madeena Building,
Jail Road, Raipur,
Chhattisgarh.

5 The Employees Provident Fund Organization, Through – Commissioner, Regional Office, 8th & 9th Floor, Mayur Bhawan, Connaught Circus, New Delhi – 1.

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

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Appearance:

Shri Pankaj Shrivastava, Counsel for the petitioner.
Shri B.P. Gupta for respondents No.1 to 4 being Senior Counsel in the panel of the Food Corporation of India.

ORAL ORDER
(24.10.2007)

SUNIL KUMAR SINHA, J.

Heard finally with the consent of both the parties.

Learned counsel for the petitioner submits that respondent No.1 is not forwarding necessary particulars to respondent No.5 regarding deduction made from the salary of the petitioner in order to enable respondent No.5 to fix the pension of the petitioner. He further submits that the Employees' Pension Scheme, 1995 is applicable in case of the petitioner and as per Clause 17A of the said scheme, respondent No.5 is bound to fix the pension of the petitioner within a period of 30 days from the date of receipt of the concerned documents by the Commissioner. He submits that the petitioner has retired in the year 2004, but even after a lapse of about 2 years 10 months, the pension of the petitioner has not been fixed.

I have heard learned counsel for the parties and have also perused the records of the Writ Petition.

Clause 17A of the Employees' Pension Scheme, 1995 referred to by learned counsel for the petitioner is quoted as under :

> **"17A. Payment of Pension**
>
> The claims, complete in all respects submitted along with the requisite documents shall be settled and benefit amount paid to the beneficiaries within 30 days from the date of its receipt by the Commissioner. If there is any deficiency in the claim, the same shall be recorded in writing and communicated to the applicant within 30 days from the date of receipt of such application. In case, the Commissioner fails without sufficient cause to settle a claim complete in all respects within 30 days, the Commissioner

shall be liable for the delay beyond the said period and penal interest at the rate of 12 per cent per annum may be charged on the benefit amount and the same may be deducted from the salary of the Commissioner."

In view of the above, in the opinion of this Court, the ends of justice would be served if the petitioner is directed to make a representation before respondent No.1 and respondent No.1 is directed to dispose of the same within the stipulated period granted by this Court.

Accordingly, it is directed that if so advised, the petitioner may file a detailed representation before respondent No.1 along with a copy of this order and a copy of the Writ Petition within a period of 3 weeks from today and if such a representation is filed and the concerned documents of the petitioner have not been forwarded by respondent No.1 to respondent No.5, respondent No.1, in turn, shall examine the points raised by the petitioner and forward the papers relating to the pension of the petitioner to respondent No.5 within a period of 60 days from the date of receipt of the said representation or shall dispose of the representation in accordance with law within the said period.

In case, the concerned documents of the petitioner are already forwarded, this order shall carry no force.

With the aforesaid observation/direction, this petition stands finally disposed of.

Sd/-
Sunil Kumar Sinha
Judge

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